

# Contracting Training

## Combating Unauthorized Commitments



November 2012

# Outline

- References
- What is an Unauthorized Commitment?
- Ratification
- Recent II MEF's UCs
- SF182 for Commercial Training
- Preventing UCs

# References

- Federal Acquisition Regulations (FAR) 1.602-3
- Marine Corps Acquisition Procedures Supplement (MAPS) 1.602-3
- HQMC (LB) UC Video (only six minutes!)
  - [https://contractapps.hqi.usmc.mil/uc\\_flash/uc\\_flash.htm](https://contractapps.hqi.usmc.mil/uc_flash/uc_flash.htm)

# Contracting or Supply


- Contracting personnel purchase items or services not available through Supply:
  - Portable toilets
  - High-speed/low-drag gear not in the sys
  - Cell phones & blackberries
  - Commercial training
- Supply personnel acquire items through:
  - ATCLASS requisition (NSN)
  - Servemart (Impact card)
  - Government Commercial Purchase Card/DOD E-mall (\$2,500 limit per purchase)
  - MIPR (occasional; must have Comptroller signature)

**via  
PR Builder  
(Purchase  
Request)**



# Unauthorized Commitment

- An agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government. Ref: FAR 1.602-3(a)

- Authority required?
  - A warrant
  - GCPC holder
  - Ordering Officer Appointment



SF1402 Cert of Appointment

# Violation of Law--Liabilities

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- Purchasing prohibited items or services or exceeding spending or funding threshold
  - Can be held personally liable for the amount purchased
  - Suspension from duty without pay, other administrative sanctions, demotion or termination of employment
  - A fine of up to \$5,000, imprisonment for up to 2 years (31 U.S.C. §§ 1350,1519)

# Typical UC Examples

- Contracting Officer's Representative tells vendor Govt will exercise an option before period of performance ends; contract ends, no option exercised, and services continue
- A Marine, without procurement authority, orders supplies or services before a contract is awarded; receives goods and takes them on deployment
- Purchase card holder exceeds their Government Commercial Purchase Card spending limit
- Gen's Aide needs coins for his boss and tells a reliable vendor, one that his predecessor used, to send 300 coins to HQ ASAP

# What to do?

If an unauthorized commitment is suspected:

- Ask questions and understand the facts
- Determine if goods or services have been received by the Government
- STOP performance or delivery
- Verify UC with the Contracting Office
- After it's determined an UC... begin ratification process



# Ratification



- Ratification is the act of approving an unauthorized commitment, by an official who has the authority to do so, for the purpose of paying for supplies or services provided to the government as a result of an unauthorized commitment. FAR 1.602-3(a)
- Timely process to complete
  - Shortest: 4 months
  - Longest: 5.8 Years

# Ratification Process



- Starts with a statement of facts by the person who made the UC
  - Includes supporting docs, if applicable
- All ratifications requires Commanding Officer's endorsement (any \$ amount)
  - The CO is defined as the first General Officer in the chain-of-command above the individual who made it



- Endorsements may not be “by direction”

# Ratification Requirements



The following conditions must be met:

- Supplies/services have been provided and accepted
- Government has obtained or will obtain a benefit from the unauthorized commitment
- Ratifying official has the authority to enter into a contractual commitment
- Resulting contract would otherwise have been proper if made by appropriate contracting officer

# Ratification Requirements

## (Continued)



- Price must be fair and reasonable
- Chief of the Contracting Office (CCO) submits package to Eastern Area Counsel Office (EACO) for an opinion
- CCO recommends payment
- Funds are available and were available
- Ratification is in accordance with any other limitations prescribed under HQMC procedures



# Ratification Authority



## Ratification Threshold      Ratification Official

UC > \$100,000      HQMC, DC, I&L

UC > \$25,000 ≤ \$100,000      HQMC, ADC, I&L  
(Contracts)

UC ≤ \$25,000      Chief of the Contracting  
Office (CCO)  
Contingency Contracting      Officers (CKOs)  
(during a      Deployment Phase of an  
Op)

# Elements of an Open Purchase

- Validated requirement
  - Command endorsement: CO/XO, SupO, S-3/4, etc.
- Funding availability
  - Comptroller endorsement required
- Contract vehicle
  - Purchase Order (DD1449)
  - Field Ordering Officer (SF44)
  - Govt Commercial Purchase Card (GCPC)
- Customer Inspect & Accept

**Completed by  
someone authorized  
to commit the  
Government**

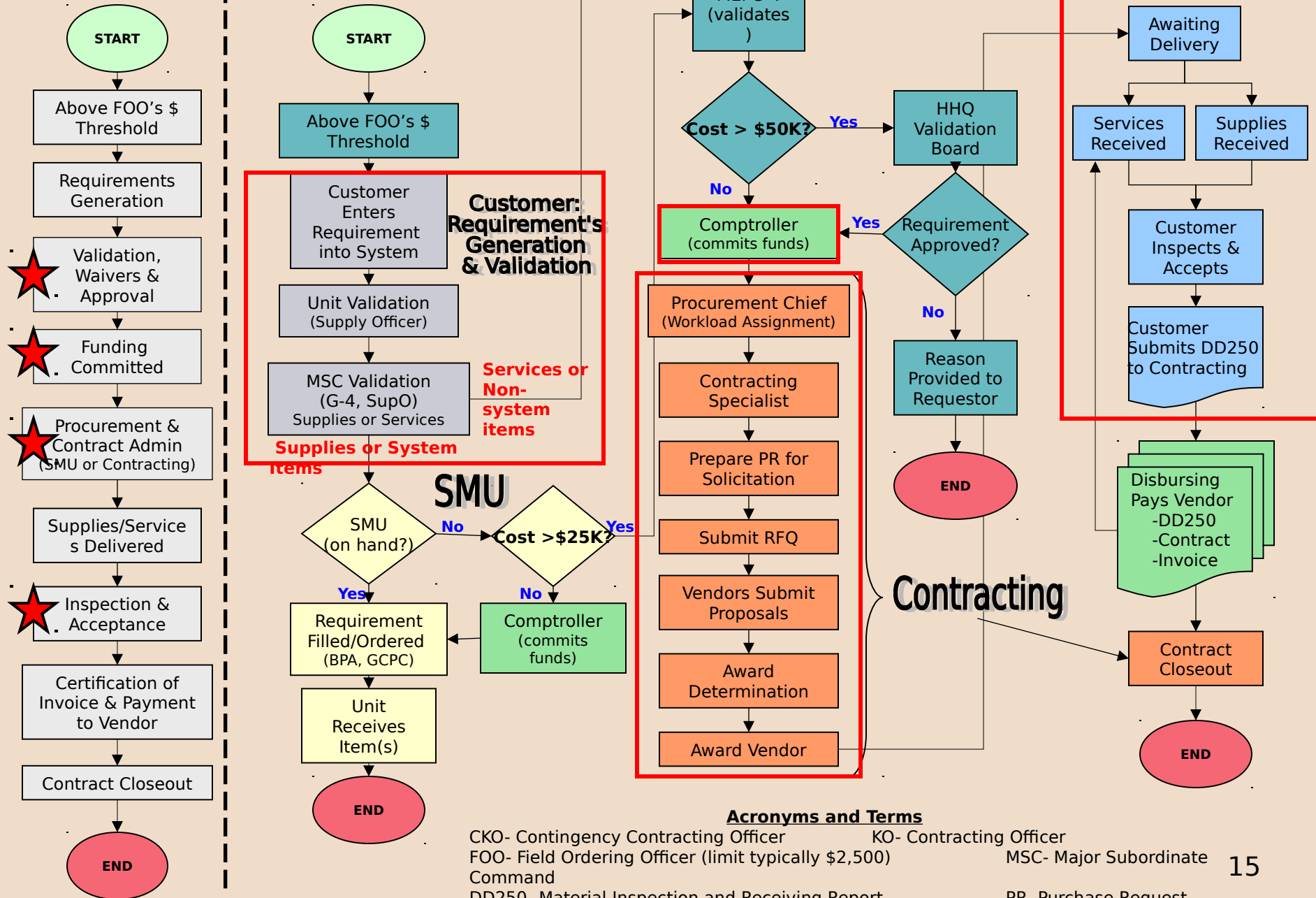
~ A Sequential Process ~

# Requirements Process Mapping

## Macro View

## Micro View

## Customer: Inspect & Accept



# Approximate Timeline to Award a Contract

<u>Dollar Value to Award</u>	<u>Acquisition</u>	<u>Work Days</u>
<\$2,500	GCPC	1-3
<\$25,000	SAP	30
\$25,001-\$100,000 60	Supplies	30 -
\$25,001-\$100,000	Services	60
<\$10M	GSA Schedule Orders	60 -75
>\$10M	GSA Schedule Orders	90 -120
\$100K - \$5M 120	Seaport-e	60

**Accurately forecasting open purchase requirements as soon as possible is the best insurance for getting your services or supplies on time.**



# Unauthorized Commitments

Unauthorized Commitments								
	Description	Occurred	Ratified	Days until Appv	Amount	Vendor	MSC	Unit
1	Software Tech Spt & Maint	Oct-02	Aug-08	2,100	\$17,500.00	The Zoldak Group, Inc	MCB Camp Lejeune	Installation Securi
2	Custom Crash Gate Repair	Jul-04	Feb-08	1,290	\$14,936.51	Logical Decision, Inc	MCAS New River	
3	Dog Tag Machine	May-05	Feb-08	990	\$3,740.00	CIM USA International	II MHG	2d Rad Bn
4	5.56mm NATO Suppressors	Aug-05	Jan-08	870	\$14,209.88	GEMTECH	2d Mar Div	8th Marines
5	Window Blinds	Dec-05	Dec-06	360	\$7,800.31	D's Interior Design	II MHG	8th Comm Bn
6	Wooden Pallets	May-06	Sep-06	120	\$7,035.84	Cape Fear Pallet Company	2d MLG	2d Supply Bn
7	Medical Trauma Training	Aug-06	Jun-07	300	\$330,400.00	Deployment Medicine Internation	2d Mar Div	H&S Bn
8	Scraper Tire	Sep-06	Jan-08	480	\$3,046.25	Buffalo Tire & Car Company	2d MLG	2d Maint Bn
9	Copier Machine Service	Oct-06	Nov-08	750	\$5,009.24	Xerox	MCB Camp Lejeune	MAGTF Integrated
10	Church Organ repair	Dec-06	Jun-07	180	\$3,500.00	R. A. Daffer, Inc	MCAS New River	Command Chapel
11	Unit Coins	Mar-07	Jun-08	450	\$3,532.92	Sparta Pewter	2d Mar Div	2/6
12	NTV Repairs	Mar-07	Oct-07	210	\$5,980.01	National Dodge, Inc	2d Mar Div	8th Marines
18	Contracted Food from ARMY MWR	Apr-07			\$6,919.00	Army MWR	CBRIF	
19	SF 182 Motorcycle Safety Course	Aug-07			\$78,000.00	Keith Code	MEF SAFETY	
20	SF 182 Motorcycle Safety Course	May-08			\$306,000.00	Keith Code	MEF SAFETY	
23	SF 182 TT training	Jun-08			\$216,000.00	Deployment Medicine Internation	II MHG	
21	SF 182 Bilat Negotiation Training TT	Aug-08			\$73,200.00		II MHG	
22	Intel BN HUMAT	Dec-08			\$6,531.16	Dick Sporting Goods	II MHG	
13	GPS Tracking Service				\$22,982.40	Networkcar		
14	Equipment Repair				\$4,977.00	Digital Receiver Tech.		
15	Equipment Repair				\$6,513.75	Vocality International		
16	Installation of Alarm System				\$5,590.00	Coastal Security		
17	UPS Repair				\$11,235.87	Power Systems		
				Total	\$1,154,640.14			

# Unauthorized Commitment

## Examples for Review

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- 5.56mm Suppressors for a Deploying Unit
- The Broken Church Organ
- Dog Tag Machine
- Using SF182 for Commercial Training
  - Combat Trauma Training

# 5.56mm Suppressors for Deploying Unit

## **Scenario:**

- Regiment required 24 suppressors
- Unit deploying within a week
- Funding is available
- SSgt (a weapons instructor) initially contacted HHQ supply for support
- “Motivated” SSgt faxed letter to vendor placing the order
  - The letter stated, “... if a PO from HHQ supply was received, disregard this order.”
- Unit received 24 suppressors within four days of SSgt’s fax



**\$14,209.88**

## **Question:**

- What went wrong?

# 5.56mm Suppressors for Deploying Unit

**Time to resolve UC:** 2.4 years

## **Lesson to Learn:**

- Work within the established process
- Seek assistance from contracting for alternative COAs as well



## **Another COA:**

- Buy 5 suppressors via GCPC (under \$2,500) to satisfy an initial reqt and place an order via contracting for the remaining 19



# The Broken Church Organ

## **Scenario:**

- Chaplain needed a working organ for church services—a valid reqt
- Funding was available
- Chaplain proceeded with the org perceived vendor to have it repaired
- Vendor repaired organ, submitted invoice

## **Question:**

- What went wrong?

**Time to resolve:** 6 months



**\$3,500.00**

**~This could happen with any non-system item~**

# Dog Tag Machine

## **Scenario:**

- A dog tag machine was needed ISO deploying Marines
- SupO registered w/ GSA; established acct
- SupO assumed he could make a buy using a DD 1149 (Requisition and Invoicing/Shipping Doc) exceeding \$2,500 by providing a valid obligation into SABRS of \$3,740, the cost of the machine
- Assumption based on the fact he was doing business w/ a GSA appv vendor

## **Question:**

- What went wrong?

**Time to resolve:** 2.75 years



**\$3,740.00**



# SF182: Commercial Training



**\$330,400.00**

## **Scenario: Combat Trauma Training**

- Div Surgeon's Office coordinated operational medical trauma training via PR Builder and with vendor
  - Vendor inferred coordination to mean a contract was in place
  - Previous commercial training via \*DD1556, DD1034 (supplemental vendor payment doc), and a class roster—all docs faxed to DFAS and paid
  - Training was authorized and coordinated with the Div Chief of Staff and the Comptroller
- INLEF G 4, Contracting Branch*

**\*SF182 superseded DD1556**

# SF182: Commercial Training



**\$330,400.00**

## **Scenario (Cont):**

- Glitch in the interface b/w PR Builder & SABRS—no requirement was received and no contract existed

## **Question:**

- Without getting into the weeds re: SF182...  
What went wrong?
- Now, regarding the SF182...



# SF182: Commercial off the Shelf (COTS) Training

- Why discuss SF182s?
  - Five UCs total to \$1M+; 87%!

## Requirements for Use:

- Training must be commercial, such that:
  - Anyone can take the training
  - Not specifically designed for the military
  - Regularly scheduled
  - Priced the same for everyone
  - Training must not be available from any Local, State, Military or federal organization
- Total cost of the training cannot exceed \$25,000
  - If cost >\$25,000, then submit reqt via PR Builder to contracting
- Prior approval from Credit Card Section is required

# Process Flow for SF182

- Get commercial training cost estimate
- Validate training requirement; get signatures
- Validate funding; get signatures & LOA
- Fill out a GCPC payment form
- Validate package w/ Credit Card Section at Contracting
- Once appv, secure training dates w/ vendor
- Maintain roster of attendees
- Submit payment via GCPC

# AUTHORIZATION, AGREEMENT AND CERTIFICATION OF TRAINING

A. Agency, code agency subelement  
and submitting office number

B. Request Status (Mark (X) one)  
☐ Resubmission ☐ Initial  
☐ Correction ☐ Cancellation

## Section A - TRAINEE INFORMATION

Please read instructions on page 6 before completing this form

1. Applicant's Name (Last, First, Middle Initial)		2. Social Security Number/Federal Employee Number		3. Date of Birth (yyyy-mm-dd)	
4. Home Address (Number, Street, City, State, ZIP Code) (Optional)		5. Home Telephone (Optional) (Include Area Code)		6. Position Level (Mark (X) one)  <input type="checkbox"/> a. Non-supervisory <input type="checkbox"/> b. Manager <input type="checkbox"/> c. Supervisory <input type="checkbox"/> d. Executive	
7. Organization Mailing Address (Branch/Division/Office/Bureau/Agency)		8. Office Telephone (Include Area Code and Extension)		9. Work Email Address	
10. Position Title		11. Does applicant need special accommodation?  <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, please describe below	
12. Type of Appointment	13. Education Level (click link to view codes or go to page 7)	14. Pay Plan	15. Series	16. Grade	17. Step

## Section B - TRAINING COURSE DATA

1a. Name and Mailing Address of Training Vendor (No., Street, City, State, ZIP Code)		1b. Location of Training Site (If same, mark box) <input type="checkbox"/>	
		1c. Vendor Telephone Number	
		1d. Vendor Email Address	
2a. Course Title	2b. Course Number Code	3. Training Start Date (Enter Date as yyyy-mm-dd)	4. Training End Date (Enter Date as yyyy-mm-dd)
5. Training Duty Hours	6. Training Non-Duty Hours	7. Training Purpose Type (Click link to view codes or go to page 8)	8. Training Type Code (Click link to view codes or go to page 8)
9. Training Sub-Type Code (Click link to view codes or go to page 8)	10. Training Delivery Type Code (Click link to view codes or go to page 12)	11. Training Designation Type Code (Click link to view codes or go to page 12)	12. Training Credit
			13. Training Credit Type Code (Click link to view codes or go to page 13)
14. Training Accreditation Indicator (Check below)  <input type="checkbox"/> Yes <input type="checkbox"/> No	15. Continued Service Agreement Required Indicator (Check below)  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	16. Continued Service Agreement Expiration Date (Enter date as yyyy-mm-dd)	
17. Training Source Type Code (Click link to view codes or go to page 13)			
18. Training Objective		19. AGENCY USE ONLY  This training is not available through any Local, State or Federal Government Agency	

## Section C - COSTS AND BILLING INFORMATION

1. Direct Costs and Appropriation / Fund Chargeable			2. Indirect Costs and Appropriation / Fund Chargeable		
Item	Amount	Appropriation Fund	Item	Amount	Appropriation Fund
a. Tuition and Fees	\$		a. Travel	\$	
b. Books & Material Costs	\$		b. Per Diem	\$	
c. TOTAL	\$		c. TOTAL	\$	
3. Total Training Non-Government Contribution Cost			6. BILLING INSTRUCTIONS (Furnish Invoice to):		
4. Document / Purchasing Order / Requisition Number			Cardholder: Name Card# last four:		
5. S - Digit Station Symbol (Example - 12-34-5678)			Appr:		
			Cardholder signature		

~NEW~

**SF182**

## BLK 6. Billing Instructions

-Needs completed prior to submitting package to Credit Card Section

-Card Holders Name  
-Card last four  
-Appropriation Data  
-Card Holder Signature

# Preventing Unauthorized Commitments

- Ensure the vendor knows you are not authorized to place orders
  - Add a standard disclaimer in the correspondence when communicating with vendors, such as:  
“The originator of this correspondence does not have the authority to obligate the Government. This request is being used to estimate costs and availability for planning purposes only and does not constitute a commitment to purchase goods or services.”
- Engage Base Contracting--EARLY
  - II MEF Cell: Ms. Williams, Capt Chase, MGySgt Boyd
  - (910) 451-5182



# Preventing Unauthorized Commitments

- Don't fall into "please the boss" mentality
  - Provide the CO facts and procurement options
- Plan ahead..."But I don't have all the info..."
  - Act on 80% of what you know now, especially if time is limited
  - You can rarely determined all of your reqts upfront
- Continue to educate yourself... policies change
- Understand the contracting process

# Questions

